

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 969 of 1998

with

CRIMINAL MISC.APPLICATION No 902 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?
- 1 to 5 : No.

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RAMJIJI JITAJI THAKORE

Versus

MANA HEMRAJ

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Appearance:

1. Criminal Misc.Application No. 969 of 1998  
M/S THAKKAR ASSOC. for Petitioner  
MR YS LAKHANI for Respondent No. 1  
Mr. S.R. Divetia, APP, for the State
  2. Criminal Misc.ApplicationNo 902 of 1998  
M/S THAKKAR ASSOC. for Petitioner  
Mr. Y.S. Lakhani for the respondent No.1  
Mrs. Ami Yagni,, APP, for the State
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CORAM : MR.JUSTICE M.H.KADRI

Date of decision: 11/09/98

ORAL JUDGEMENT

Rule. Service of Rule is waived by learned Additional Government Pleader, Mrs. Ami Yagnik and learned advocate Mr. Y.S. Lakhani for the respective respondents. By the consent of the learned advocates for the parties, these Criminal Misc. Applications are taken up for final hearing.

Since the issues involved in both these applications are common, these applications are disposed of by this common judgment.

The original complainant, Ramjiji Jitaji Thakore, has filed these two applications under Section 439(2) of the Code of Criminal Procedure for cancellation of bail granted to the respondents-original accused, namely, (i) Mana Hemraj, (ii) Chamanji Jaymal and (iii) Hemrajaji Jumaji Thakore, in connection with C.R. No.I-104/96, of Bhabhar Police Station, for the offences punishable under Sections 302, 323, 324, 506(2), 447, and 34 of the Indian Penal Code. As per the say of the complainant, the respondents-original accused, while they were on bail, had abused their liberty and committed offences punishable under Sections 504 and 506(2) of the Indian Penal Code and the complaint was registered at C.R. No.II 83/97 with Bhabhar Police Station. It is the further say of the complainant that offences were registered at C.R. No.I-12/98 with Bhabhar Police Station against the respondents-original accused for the offences punishable under Sections 323, 324, 506(2) and 114 of the Indian Penal Code. In both the aforesaid cases, chargesheets are already filed in the competent court against the respondents-original accused.

In response to the notice issued to the respondents-original accused, affidavit in reply has been filed on their behalf, wherein, it is stated that the respondents-original accused were released on bail on May 7, 1997 by this High Court in Misc. Criminal Application No.2164 of 1997. It is contended that a false case has been made against the respondents for cancellation of bail. It is stated that the original complainant, any how, wants to see that the bail granted in favour of the respondents is cancelled and these two applications are filed with ulterior motives and, therefore, the same deserve to be dismissed.

At the time of hearing of these applications, the

police papers were called for of both the above-stated cases from the Bhabhar Police Station.

As the charge-sheets are already filed in both the cases, I do not deem it necessary to discuss merits or demerits of the complaints lodged against the respondents-original accused. However, looking to the facts and circumstances of the case, and with a view to avoid any untoward incident, it would be in the fitness of things to impose the following conditions in addition to other conditions imposed by the Court for bail.

- (a) The respondents-original accused shall mark their presence at the nearest police station on 5th day of every month between 9.00 a.m. and 2.00 p.m., till the end of the trial;
- (b) The respondents-original accused shall not enter into the revenue limits of Deodar Taluka, Dist: Banaskantha, during pendency of Sessions Case arising out of C.R. No.I-104/96 of Bhabhar Police Station, till the conclusion of the trial.

In the event of breach of the above conditions by the respondents-original accused, it would be open to the original complaint to initiate appropriate legal proceedings against them by approaching either Sessions Court or High Court.

With the above directions, these two applications are disposed of. Rule is made absolute to the aforesaid extent. Copy of this order be sent to (i) Bhabhar Police Station, and (ii) Sessions Court, at Palanpur, for necessary action.

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